

STATE OF MICHIGAN
MACOMB COUNTY CIRCUIT COURT

WIRELESS BUYBACKS, LLC,

Plaintiff,

vs.

Case No. 2013-4732-CK

WIRELESS POINTE WHOLESALE, LLC, and
MARY HANNA, a/k/a MARY YOUNAN
HANNA,

Defendants.

OPINION AND ORDER

Plaintiff has filed a motion for summary disposition. Defendant Mary Hanna has filed a response and requests that the motion be denied.

Facts and Procedural History

On November 26, 2013, Plaintiff filed its complaint in this matter asserting claims for breach of contract, unjust enrichment, fraud and conversion. In its complaint, Plaintiff alleges that between March 11, 2013 and March 28, 2013 it ordered, and paid for, used phones and handsets from Defendant Wireless Pointe Wholesale, LLC (“Wireless Pointe”). Plaintiff further alleges that it did not receive the items it ordered and that Wireless Pointe was dissolved shortly after receiving Plaintiff’s last payment.

On April 7, 2014, Plaintiff filed its instant motion for summary disposition. In its motion, Plaintiff contends that Defendants failed to respond to its requests for admission, that Defendant Wireless Pointe Wholesale, LLC did not file an answer and that Defendant Mary Hanna (“Defendant Hanna”) improperly plead ignorance in her answer. On May 9, 2014,

Defendant Hanna filed her response to the motion. In the response, Defendant Hanna disclosed that her former business was named Wireless Point Wholesale, LLC, not Wireless Pointe Wholesale, LLC, that Plaintiff's complaint and discovery requests need to be amended to reflect the proper entity, and that as a result the motion must be denied.

On May 27, 2014, the Court held a hearing in connection with the instant motion. At the hearing, Plaintiff's counsel acknowledged that the wrong entity had been named as a Defendant, and the Court granted Plaintiff leave to amend its pleadings.

Plaintiff's instant motion is based on the previously submitted discovery requests and complaint, all of which were directed at the wrong entity. As a result, the Court is convinced that the instant motion must be denied in order to allow Plaintiff to file its amended complaint and discovery requests, and to allow Defendant Hanna and Wireless Point Wholesale, LLC to file their answer(s) and discovery responses to the proper pleadings.

Conclusion

Based upon the reasons set forth above, Plaintiff Wireless Buybacks, LLC's motion for summary disposition is DENIED. This *Opinion and Order* does not resolve the last claim and does not close the case. See MCR 2.602(A)(3).

IT IS SO ORDERED.

/s/ John C. Foster
JOHN C. FOSTER, Circuit Judge

Dated: May 30, 2014

JCF/sr

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